

E-filing

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FILED
APR 11 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

ADR

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

KAREN DAVIS, on behalf of herself and
all others similarly situated,

Plaintiff,

vs.

No.

C08-01937

CIVIL - CLASS ACTION

JURY TRIAL DEMANDED

REDDY ICE HOLDINGS, INC.; ARCTIC
GLACIER INC; ARCTIC GLACIER
INTERNATIONAL INC.; AND HOME
CITY ICE COMPANY,

Defendants

CLASS ACTION COMPLAINT

Plaintiff, KAREN DAVIS ("Plaintiff") on behalf of herself and all others similarly situated, bring this action under the federal antitrust laws §§ 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15, 26, to recover treble damages, injunctive relief, and the costs of suit, including reasonable attorneys' fees and experts' fees, for the injuries to the Plaintiff and proposed class members she represents resulting from Defendants' violation of the federal antitrust laws, specifically Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2. The allegations set forth

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NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SENT

below are based upon information and belief pursuant to the investigation of counsel, except as to those allegations regarding the Plaintiff.

NATURE OF CLAIM

1. This class action, brought under the federal antitrust laws, arises out of a conspiracy among Defendants - United States and Canadian ice producers - to fix prices, to allocate markets, customers and territories and to commit other anticompetitive acts for the purpose and effect of unlawfully fixing, raising, maintaining, and/or stabilizing prices of ice sold in plastic bags or in large blocks ("packaged ice") in the United States.

2. American consumers typically encounter packaged ice as the bagged ice sold in a freezer in the nearest convenience store. That freezer usually bears the trade marks of the ice manufacturer. Generally, a store owner is an indirect purchaser from the packaged ice manufacturer. The packaged ice manufacturer delivers packaged ice in trucks and fills the branded freezer.

3. There are only three major producers of packaged ice in the United States and Canada - Reddy Ice Holdings, Inc. ("Reddy Ice"), Arctic Glacier Inc. ("Arctic Glacier"), and The Home City Ice Company ("Home City") (all defined formally below).

4. The number one U.S. packaged ice product is Reddy Ice. On March 5, 2008, the United States Department of Justice executed a search warrant at the Dallas, Texas headquarters of Reddy Ice. On March 6, 2008, Arctic Ice announced that it had "bec[o]me aware [that] the Antitrust Division of the United States Department of Justice is conducting an investigation into possible antitrust issues in the packaged ice industry." Arctic Glacier promised that it would "cooperate with authorities" in the investigation.

5. To obtain a search warrant, the United States had to have probable cause, accepted by a magistrate, to believe that it would obtain evidence of an antitrust violation as a result of executing the search warrant - that is, the United States had to have evidence sufficient to warrant a person of reasonable caution to believe that raiding the offices of a seemingly lawful business would uncover evidence of antitrust violations and that claimed evidence had to have been examined and accepted by a magistrate. That belief, which was recounted in sworn affidavit or

1 by testimony, must be grounded on reasonably trustworthy information.

2 6. Moreover, a report published by Reuters on March 14, 2008 revealed that
3 management and employees of Reddy Ice Holdings “have received grand jury subpoenas seeking
4 information related to a[n] anti-trust probe.” The grand jury is located in the Eastern District of
5 Michigan.

6 7. The distribution networks of the three major packaged ice producers show all the
7 markings of territorial allocations. The major producers hold large swaths of contiguous territory
8 in the United States. They have little, if any, overlap in the locations they serve despite having
9 the ability and resources to compete with each other.

10 8. Indeed, over the past decade, Defendants have honed a strategy of avoiding each
11 other’s territories, while otherwise growing their businesses through acquisition, even when it has
12 been against their unilateral economic self-interest to do so.

13 9. Further, the structural characteristics of the packaged ice market make it uniquely
14 susceptible to anticompetitive acts. Packaged ice is a highly perishable and expensive to
15 transport and store. The demand (in a hypothetical competitive market) for packaged ice is
16 highly inelastic. Packaged Ice is a commodity product. For the indirect customer (e.g., a
17 retailer), price is the most significant factor in the purchase decision.

18 10. In simple terms, the market for packaged ice shares numerous characteristics with
19 markets, such as concrete production, where price fixing is often endemic.

20 11. The price of packaged ice has risen steadily and consistently over the class period,
21 notwithstanding the gyrations that should be expected due to varying input costs.

22 **JURISDICTION AND VENUE**

23 12. The Court has jurisdiction over this action pursuant to 15 U.S.C. §§15 and 26, and
24 pursuant to 28 U.S.C. §§1331, 1337(a).

25 13. Venue is proper in the Northern District of California pursuant to Section 22 of the
26 Sherman Act, and 28 U.S.C. § 1391(b) and (c). Some or all Defendants reside, are licensed to do
27 business, are doing business, had agents, or are found to transact business, in this District and/or
28 the claims arose in this District.

15. Plaintiff Karen Davis is a Contra Costa County, California resident who purchased packaged ice indirectly from one or more of the Defendants during the class period, and was damaged as a result of Defendants' unlawful conduct.

19. Defendant Arctic Glacier Inc. is a business entity organized under the law of Alberta, Canada, with its principal place of business located at 625 Henry Avenue,, Winnipeg Manitoba, Canada.

21. Defendant The Home City Ice Company (“Home City”) is a privately-held Ohio corporation located at 6045 Bridgetown Road, Cincinnati, Ohio 45248.

22. Upon information and belief, various other persons, firms and corporations, not named as Defendants herein, have participated as co-conspirators with the Defendants in the violation of law alleged in this Complaint and have engaged in conduct and made statements in furtherance of the conspiracy.

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1 affairs.

2 **INTERSTATE TRADE AND COMMERCE**

3 24. The Defendants are leading manufactures of packaged ice in the United States and
4 Canada.

5 25. Packaged Ice is sold throughout the United States in interstate commerce.

6 26. The restraints hereinafter alleged have indirectly and substantially affected
7 interstate commerce in that the Defendants have deprived Plaintiff and the class of the benefits of
8 free and open competition in the packaged ice market throughout the United States and Canada.

9 **THE MARKET FOR PACKAGED ICE**

10 27. Packaged Ice is sold in cubes or blocks (or other similar shapes) in packages
11 ranging from 5 lbs. to 50 lbs. It is commonly sold in supermarkets, convenience stores, beer and
12 liquor stores, drug stores and other commonplace retail outlets.

13 28. Packaged Ice has numerous uses, for the most obvious of which is to maintain
14 foods and beverages at suitable cool temperatures for human consumption, especially in
15 conjunction with outdoor events and social gatherings.

16 29. The market demand for packaged ice, under competitive conditions, is inelastic.
17 That is, an increase in price would produce a less than offsetting reduction in quantity sold.
18 Thus, an artificial increase in price would be remunerative.

19 30. Packaged Ice is a commodity. Consumers have little, if any, preference as to
20 brands.

21 31. The ultimate consumer demand for packaged ice is driven by many factors
22 unrelated to price.

23 32. For the indirect purchasing retailer, however, under normal conditions and in the
24 presence of bona fide competition, the cost of Packaged Ice is the most important factor in its
25 purchasing decision.

26 33. For ultimate consumers, the cost of packaged ice is seldom significant relative to
27 the overall costs of the occasions for which it is used.

28 34. Given its extremely perishable character in warmer conditions, as well as the

1 similar character of the commodities it is used to cool, ultimate consumers will seldom be able to
2 engage in price-comparison shopping for packaged ice.

3 35. There are no economically reasonable substitutes for packaged ice.

4 36. The ultimate consumer demand for packaged ice is highly seasonal, rising
5 significantly in the warmer months. Peak demand during the warmer months of May through
6 September accounts for 69 percent of annual revenues.

7 37. The ultimate consumer demand for packaged ice is geographically specific, with
8 packaged ice being more favored in those parts of the country where the warmer season begins
9 earlier and endures longer.

10 38. Packaged Ice producers can and do entrench themselves with their retail
11 customers by installing on-location freezers, which freezers bear the producers' trademarks and
12 are owned by the producers. This raises the costs to purchasers of switching from one packaged
13 ice supplier to another.

14 39. Typical customers (i.e., retailers) carry only one brand of ice and have long terms
15 relationships with the manufacturer from whom they purchased packaged ice products.

16 40. There are substantial barriers that preclude or reduce entry into the production and
17 distribution of packaged ice. The industry has a high start-up and replacement costs.

18 41. Packaged Ice is costly to transport and costly to store. As a result, packaged ice
19 effectively cannot be delivered more than 100 miles away from the plant where it is produced.

20 42. Before the past ten or fifteen years, packaged ice was produced and distributed by
21 local and regional firms. The last decade and a half have brought widespread consolidation as
22 Defendants have acquired numerous independent

23 43. Reddy Ice is the largest manufacturer and distributor of packaged ice in the United
24 States. It sells its products primarily under the Reddy Ice brand to some 82,000 locations in some
25 31 states and the District of Columbia. It has over 2,000 employees and distributes its products
26 to the marketplace through indirect store delivery, warehouse programs, distributors, jobbers, and
27 its proprietary on-site making technology.

28 44. Reddy Ice had sales of \$339 million in 2007. It holds the dominant market

1 position in the United States.

2 45. Reddy Ice manufactures and distributes ice products, including cubed ice, crushed
3 ice, half-moon and cylindrical ice, and block ice. It sells approximately 1.9 million tons of ice
4 per year, primarily packaged in seven and ten pound bags, sold principally to convenience stores
5 and supermarkets.

6 46. Over the past several years, Reddy Ice has conducted a series of acquisitions
7 designed to eliminate competition in the production and distribution of packaged ice.

8 47. Reddy Ice's acquisition program has focused on acquiring small local and regional
9 ice producers that operate either within a contiguous to its existing sales areas for the purpose of
10 eliminating competition. Reddy Ice has not acquired ice producers in areas that would bring it
11 into competition with either Arctic Glacier or Home City.

12 48. From 1997 through 1999, Reddy Ice (and its predecessor) pursued a
13 "consolidation strategy" acquiring some 80 ice businesses, most significantly acquiring in 1998
14 the "Reddy Ice Corporation" and Cassco Ice & Cold Storage. Previously, Suiza's Reddy Ice had
15 made some 28 acquisition in the January 1997 through April 1998 period. In 2003, Reddy Ice
16 acquired Triangle Ice Co. for \$64 million. Then, in 2004, it acquired 11 more ice companies. In
17 2005, it acquired another two, and in 2006, another 10. None of Reddy ice's acquisitions were in
18 regions that would place it into competition with Arctic Glacier or Home City.

19 49. Arctic Glacier is another leading producer, marketer and distributor of packaged
20 ice in the United States, selling (*inter alia*) under the brand name Arctic Glacier ® Premium ice.
21 Arctic Glacier operated 37 manufacturing plants and 50 distribution facilities across Canada and
22 the northeast, central and western United States, serving more than 70,000 retail accounts.

23 50. Arctic Glacier is the second-largest producer and distributor of packaged ice in the
24 United States, with total revenues of \$249 million for 2007. Of these revenues, more than 80
25 percent comes from its United States operations, in which it has dominant market positions in
26 major eastern seaboard cities such as New York and Philadelphia, as well as in New England,
27 California and the Midwest.

28 51. During the last several years, Arctic Glacier has engaged in an acquisition

1 campaign designed to eliminate competition in the market for packaged ice. Indeed, Arctic
2 Glacier has stated that the acquisition of contiguous, competing ice businesses is its business
3 strategy.

4 52. Since 1997, Arctic Glacier has completed some 62 acquisitions, at a cost of some
5 \$505 million.

6 53. In 2006, Arctic Glacier acquired a group of six entities in California for \$188.5
7 million, giving its market dominance in California, where neither Reddy Ice nor Home City
8 operates. In March 2007, Arctic Glacier enhanced its dominance in California by acquiring
9 Union Ice-Pacific L.P. of Los Angeles, California, again acquiring operations contiguous to, or
10 overlapping with, its existing operations.

11 54. Also, during 2006, Arctic Glacier acquired an upstate New York producer, Happy
12 Ice LLC, giving Arctic Glacier dominance in a region where there is no competition from either
13 Reddy Ice or Home City.

14 55. Home City sells ice across all of Ohio, Indiana, Illinois, Kentucky, and West
15 Virginia, as well as parts of Michigan, Pennsylvania, Tennessee, New York, and Maryland.
16 Home City manufactures 4,400 ton of ice per day in 28 state-of-the-art manufacturing plants,
17 with 36 distribution centers, and has a fleet of over 500 trucks to serve the Midwest.

18 56. Together, Defendants are the largest of packaged ice in the United States and
19 North America. Sales by Defendants comprise approximately 70% of the packaged ice sold to
20 retailers and similar businesses.

21 **ANTICOMPETITIVE CONDUCT**

22 57. Defendants hold a dominant position in the sale of packaged ice in the United
23 States. They have abused that dominance through collusive activity to raise, fix and maintain the
24 price of packaged ice at supra-competitive levels. In short, among other things, they have agreed
25 to allocate territories and customers among themselves and to avoid competition with each other.

26 58. Beginning at least as early as January 1, 2002, the exact date being unknown to
27 Plaintiff, and continuing thereafter to the present day, Defendants and their co-conspirators
28 engaged in unlawful conduct, combination or conspiracy with the purpose and effect of fixing

1 prices, allocating markets and committing other anticompetitive practices designed to unlawfully
2 fix, raise, maintain, and/or stabilize prices of packaged ice in a per se violation or unreasonable
3 restraint of trade in violation of Section 1 of the Sherman Act.

4 59. During the class period, Defendants engaged in illegal, anticompetitive conduct
5 by, *inter alia*, allocating markets so that Defendants did not compete with each other.

6 60. This resulted in the following market division: (1) Reddy Ice has the dominant
7 market position in the U.S. sunbelt states, from Florida to Arizona, the mid-Atlantic and the
8 Northwest; (2) Arctic has a dominant market position in the Central and Northeastern states and
9 California; and (3) Home City has dominant market position in the Illinois, Indiana and Ohio as
10 well as on the fringes of some adjoining states.

11 61. There is little, if any, overlap in the geographic markets where each Defendant
12 operates.

13 62. Defendants have engaged in conduct inconsistent with their economic self-interest
14 to perpetuate their territorial allocation. By way of illustration, at all times, it would have been in
15 Arctic Glacier's economic self-interest to have entered the packaged ice market on the southern
16 tier of the United States, as the demand for packaged ice is strongest in those area. Arctic Glacier
17 could have entered that market with little fear of retaliation from the dominant incumbent, Reddy
18 ice, because (excepting Arctic Glacier's 2006 acquisitions in California) Reddy Ice would have
19 little incentive to enter in the relatively unattractive markets where Arctic Glacier is dominant.

20 63. On information and belief, Reddy Ice agreed to Arctic Glacier's California
21 acquisitions on condition that Arctic Glacier would not enter Reddy ice's lucrative markets along
22 the southern tier of the United States. California is contiguous to Reddy ice's existing territories,
23 and would have been a logical extension of its geographic area had it chosen to enter California.

24 64. Defendants agreed not to compete head to head in any of the markets in which one
25 of them was dominant. Each region of the United States, as previously alleged, is controlled by
26 one particular packaged ice manufacturer.

27 65. On or about March 6, 2008, Reddy Ice issued the following press release:
28 Reddy Ice Holdings, Inc. (NYSE:FRZ) announced that federal officials
executed a search warrant at the Company's corporate office in Dallas on

March 5, 2008. The Company is cooperating with the authorities.

The Company's priority mission is to provide superior service to its customers, and it will continue to function in a normal business matter.

66. On or about March 7, 2008, Reddy Ice issued the following additional press release:

Reddy Ice Holdings, Inc. (NYSE:FRZ) is providing further information to supplement the press release issued on March 6, 2008 regarding the execution of a search warrant at the Company's corporate office in Dallas on March 5, 2008. The execution of the search warrant was indirected by the Antitrust Division of the United States Department of Justice with an investigation of the packaged ice industry. The Company's board of directors has formed a special committee of independent directors to conduct an internal investigation.

The Company will continue to serve its customer in its normal business manner.

67. By engaging in conduct that allocated the market among the Defendants, price competition was reduced or eliminated throughout the United States./

68. On or about March 6, 2008, Arctic Glacier issued the following press release: Arctic Glacier Income Fund (TSX: AG.UN) today announced that on March 5, 2008, its operating subsidiary, Arctic Glacier Inc., became aware the Antitrust Division of the United States Department of Justice is conducting an investigation into possible antitrust issues in the packaged ice industry. The company will cooperate with authorities in the course of the investigation.

ALLEGATIONS OF ANTITRUST INJURY TO PLAINTIFFS AND THE CLASS

69. The aforesaid combination and conspiracy has had the following effects, among others:

- a. it restrained and eliminated price competition with respect to packaged ice;
- b. it raised, fixed, maintained and stabilized the price of packaged ice at supra-competitive levels; and
- c. it deprived indirect purchasers of packaged ice of free and open competition in the packaged ice market.

70. During the period covered, Defendants charged Plaintiff and the class anticompetitive prices for packaged ice. By reason of the alleged violations of the antitrust laws,

1 Plaintiff and the class have sustained injury to their businesses or property, having paid higher
2 prices for packaged ice than they would have paid in the absence of the illegal contract,
3 combination of conspiracy, and, as a result, have been injured in their business and have suffered
4 damages in an amount presently underdetermined. This is an antitrust injury of the type that the
5 antitrust laws were meant to punish and prevent.

6 **CLASS ACTION ALLEGATION**

7 71. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff bring this
8 action on their own behalf and on behalf of all others similarly situation. The "class" is defined
9 as:

10 All persons, corporation, and other legal entities in the United States
11 (excluding governmental entities, defendants, their subsidiaries, and any
12 co-conspirators), who purchased packaged ice from one or more of the
13 Defendants (the "class") in the United States or Canada at any time from at
14 least January 1, 2002 through the present (the "class period").

15 72. The members of the class are so numerous and geographically dispersed across the
16 country that joinder of all members of the class would be impracticable. Member of the class are
17 located through the United States and Canada. The exact number of class members is unknown
18 by Plaintiff at this time, and Plaintiff believe that the class is in the tens of thousands. The
19 identities of the members of the class can only be discovered through inspection of Defendants'
20 records, which are or should be readily available.

21 73. Plaintiffs' claims are typical of the members of the class. Plaintiff and all
22 members of the class were commonly impacted and damaged by Defendants' wrongful conduct.
23 Plaintiff and the class purchased packaged ice at artificially inflated, non-competitive prices
24 induced by Defendants' wrongful conduct alleged herein.

25 74. Plaintiff will fairly and adequately protect the interests of the class. The interests
26 of Plaintiffs are coincident with, and not antagonistic to, those of the class. In addition,
27 Plaintiffs' counsel is experienced and competent in the prosecution of complex class action
28 antitrust litigation.

75. Questions of law and fact common to the members of the class predominate over

1 questions that may affect only individual members. Defendants have acted on grounds generally
2 applicable to the entire class. Among questions of law and fact common to the class are:

3 a. Whether Defendants conspired with the purpose and affect of fixing prices,
4 allocating markets and committing other anticompetitive practices designed to unlawfully fix,
5 raise, maintain, and/or stabilize prices of packaged ice;

6 b. Whether Defendants' conduct violated Section 1 of the Sherman Act:

7 c. The existence, duration, and illegality of the contract, combination or conspiracy
8 alleged herein;

9 d. The effect upon and the extent of injuries sustained by Plaintiff and members of
10 the class and the appropriate type and/or measure or damages;

11 e. Whether Defendants took affirmative steps to conceal the contract, combination or
12 conspiracy alleged herein; and

13 f. Whether Plaintiff and the class are entitled to declaratory and/or injunctive relief.

14 76. Class action treatment is superior to any alternatives for the fair and efficient
15 adjudication of this controversy. Class treatment will permit the tens of thousands of similarly
16 situated persons to prosecute common claims simultaneously and efficiently in a single forum;
17 without the unnecessary duplication and effort and expense that individual actions would require.
18 Class treatment will also permit the adjudication of class members' relatively small claims, which
19 would otherwise go unaddressed as those plaintiffs cannot afford to litigate individually antitrust
20 claims against such large corporate defendants.

21 77. Plaintiffs are not aware of any difficulties that are likely to be encountered in the
22 management of this action that would preclude its maintenance as a class action.

23 **FRAUDULENT CONCEALMENT**

24 78. The running of any statute of limitations has been suspended with respect to any
25 claims which Plaintiffs and the other members of the class have sustained as a result of the
26 unlawful combination and conspiracy alleged herein and with respect to their rights to injunctive
27 relief by virtue of the federal doctrine of fraudulent concealment. Defendants through various
28 devices and techniques of secrecy affirmatively and fraudulently concealed the existence of the

1 unlawful combination and conspiracy alleged herein.

2 **COUNT 1 - VIOLATION OF SECTION 1 OF THE SHERMAN ACT**

3 79. Plaintiff incorporates by reference as if fully set forth herein the allegations
4 contained in the preceding paragraphs of this Complaint.

5 80. Defendants and unnamed conspirators entered into and engaged in a contract, or
6 conspiracy in an unreasonable restraint of violation of Section 1 of the Sherman Act.

7 81. As a result of the contract, combination or conspiracy among Defendants alleged
8 herein, the prices charged to Plaintiff and the class for packaged ice were raised, fixed,
9 maintained, and stabilized in the United States. The alleged contract, combination, or conspiracy
10 is a *per se* violation of the federal antitrust laws and is at a minimum an unreasonable and
11 unlawful restraint of trade.

12 82. The contract, combination, or conspiracy has the following effects:

13 a. Priced charged to Plaintiff and the class for packaged ice was raised, fixed,
14 maintained or stabilized at non-competitive levels;

15 b. Plaintiff and the class have been deprived of the benefits of free, open and
16 unrestricted competition in the market for packaged ice; and

17 c. competition in establishing the prices paid and locations of doing business has
18 been unlawfully restrained, suppressed and eliminated.

19 83. As an indirect and proximate result of Defendants' unlawful conduct, Plaintiff and
20 the class have been damaged by paying supra-competitive prices that they would not have had to
21 pay but for the unlawful conduct of Defendants alleged herein.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays that:

24 A. The Court determine that this action may be maintained as a class action under
25 Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and indirect that reasonable notice
26 of this action as provided by Rule 23(c)(2), Federal Rules of Civil Procedure, be given each and
27 every member of the class:

28 B. The unlawful combination and conspiracy alleged herein be adjudicated and

1 decreed to have been in violation of Section 1 of the Sherman Act;

2 C. Judgment be entered for Plaintiff and the members of the class against Defendants
3 for three times the amount of damages sustained by Plaintiff and the members of the class as
4 allowed by law, together with the costs of this action, including reasonable attorneys' fees;

5 D. Defendants be enjoined from continuing the unlawful contract, combination or
6 conspiracy alleged herein; and

7 E. Plaintiff and the class be granted such other, further and different relief as the case
8 may require or as the Court may deem just and proper under the circumstances.

9 **JURY DEMAND**

10 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury.

11 Date: April____, 2008

Respectfully submitted,

14 By: _____
15 DONALD AMAMGBO
16 REGINALD TERRELL
17 Attorneys for Plaintiff
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C-08-1937-132

JS 44 (Rev. 12/07) (and rev 1-16-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

KAREN DAVIS, on behalf of herself and all others similarly situated

DEFENDANTS

REDDY ICE HOLDINGS (See Attachment "A")

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Reginald Terrell, The Terrell Law Group, 223 25th Street, Richmond, CA
94804 510-237-9700
Donald Amangbo, Amangbo & Associates, 7901 Oakport Street, #4900,
Oakland, CA 94621

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input checked="" type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	SOCIAL SECURITY	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	CIVIL RIGHTS	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 550 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 580 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 590 Other Statutory Actions
REAL PROPERTY	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 600 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS	<input type="checkbox"/> 610 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 620 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	IMMIGRATION	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 630 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 640 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 650 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Sherman Act

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

04-11-2008

SIGNATURE OF ATTORNEY OF RECORD

Reginald Terrell

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Attachment B

**, INC.; ARCTIC GLACIER INC; ARCTIC GLACIER INTERNATIONAL INC.; AND HOME CITY
ICE COMPANY,**